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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,509	03/29/2001	James J. Lu	065968.0144	5222

7590 11/15/2004

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EXAMINER	
TIEU, BENNY QUOC	
ART UNIT	**PAPER NUMBER**
2642	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)	
	09/821,509	LU, JAMES J.	
	Examiner	Art Unit	
	Benny Q. Tieu	2642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 March 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 March 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-6, 9-19, 21-23, 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Steltner et al. (U.S. Patent No. 6,650,731).

Regarding claims 1, 14 and 22, Steltner et al. teach a method of and system for call processing comprising:

receiving, at a soft-switch executing on computer, a plurality of calls for switching (Fig. 19, 1902);

monitoring least one criteria associated with operation of the computer (column 25, line 46 through column 26, line 38); and

based on the monitoring, limiting the number of calls processed the computer (column 26, lines 39-45).

Regarding claims 2 and 15, Steltner et al. further teach the method wherein the computer has processing system and memory, and the soft-switch has plurality signaling subsystems, and wherein the at least one criteria is selected from the group consisting the amount usage least a portion of the processing system, the amount of usage of the memory, and the number of the plurality calls that are being processed by each of the plurality of subsystems (column 26, lines 1-8).

Regarding claims 3, 4 and 16-18, Steltner et al. further teach the method wherein the computer comprises a memory, and wherein the at least one criteria comprises the amount of usage of the memory and wherein the computer comprises a processor, and wherein the least one criteria comprises the amount usage of the processor (column 27, lines 23-35).

Regarding claims 5 and 19, Steltner et al. further teach the method wherein the soft-switch has a plurality of signaling subsystems and the at least one criteria comprises the number plurality of calls that are being processed each of the plurality of subsystems (column 27, lines 48-53).

Regarding claims 6 , 21, 23, 25 and 26, Steltner et al. further teach the method comprising limiting the number of calls response determining that the amount usage memory exceeds approximately 80-85% of the capacity of the memory (column 27, lines 23-35).

Regarding claims 9-11, Steltner et al. further teach the method wherein limiting the number calls processed by the computer comprises accepting no additional calls processed by the computer or wherein limiting the number calls processed by the computer comprises limiting the number of calls processed by the computer until the at least one criteria associated with operation of the computer reaches an acceptable level (column 13, lines 32-35).

Regarding claims 12 and 13, Steltner et al. further teach the method wherein the computer comprises a memory and wherein the acceptable level an amount of usage the memory that is 75-80 of the capacity of the memory or wherein the computer comprises a processor and wherein the acceptable level the amount of usage of the processor that is 90% of the capacity of the processor (column 27, lines 23-35).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 7, 8, 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steltner et al. (U.S. Patent No. 6,650,731).

Regarding claims 7, 8, 20 and 24, Steltner et al. fail to teach the method comprising limiting the number of calls in response to determining amount of usage of processor exceeds approximately 90-95% of the amount of capacity the processor or limiting the number of calls processed the computer in response determining that the number of the plurality calls being processed by the computer exceeds approximately 50% of capacity of buffers of the soft-switch for processing calls. However, Steltner et al. suggest that the configuration of the real intelligent network can be selected to achieve the highest possible IN efficiency under the given basic conditions (column 28, lines 35-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of adjusting the percentages of capacity the processor or capacity of buffers to 90-95% and 50%, respectively, in configuration as suggested by Steltner et al. in order to achieve the highest possible IN efficiency.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. White et al. (U.S. Patent No. 5,933,490) teach an overload protection for on-demand access to the internet that redirects calls from overloaded internet service provider to alternate

internet access provider. Aravamudan et al. (U.S. Patent No. 6,301,609) teach an assignable associate priorities for user-definable instant messaging buddy groups.

7. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

OR Hand-delivered responses should be brought to:

220 South 20th Street

Crystal Plaza Two, Lobby, Room 1B03

Arlington, VA 22202.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benny Q. Tieu whose telephone number is (703) 305-2360. The examiner can normally be reached on Monday-Friday: 6:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Benny Q. Tieu

BENNY TIEU
PRIMARY EXAMINER

Art Unit 2642
November 11, 2004